

Exhibit 22

Zsolt Herczegh

February 12, 2014

London, UK

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 U.S. SECURITIES AND EXCHANGE :
COMMISSION, :
4 :
Plaintiff, :
5 :
vs. : No.11 Civ.9645
6 : (RJS)
ELEK STRAUB, :
7 ANDRÁS BALOGH, and :
TAMÁS MORVAI, :
8 :
Defendants. :

9
10
11
12 VIDEOTAPED DEPOSITION UPON ORAL EXAMINATION
OF
13 ZSOLT HERCZEGH
14
on

15
Wednesday, February 12, 2014
16 commencing at 9.59 a.m.
17 Taken at:
Nabarro LLP
18 Lacon House
84 Theobald's Road
19 London, WC1X 8RW
United Kingdom

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21
22
23
24
25 Reported by: Thelma Harries, MBIVR, ACR

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<p>1 written in, partially in Hungarian partially in</p> <p>2 English. The second page appears to be an English</p> <p>3 language translation of the first page. And the</p> <p>4 third and fourth pages appear to be an attachment</p> <p>5 to the e-mails with handwritten notations.</p> <p>6 (Exhibit Plaintiff's 94 marked for</p> <p>7 identification)</p> <p>8 BY MR. DODGE:</p> <p>9 Q Mr. Herczegh, can you tell me whether</p> <p>10 you have seen Exhibit 94 before?</p> <p>11 A Yes, I have seen this document</p> <p>12 before.</p> <p>13 Q And can you tell me what it is?</p> <p>14 A It's an e-mail chain with an</p> <p>15 attachment and with a password to open the document</p> <p>16 file.</p> <p>17 Q So reading from the bottom up, the</p> <p>18 bottom part appears to be an e-mail sent from</p> <p>19 Mr. Szendrei to András Balogh on July 5th, 2005,</p> <p>20 and the top appears to be that e-mail being</p> <p>21 forwarded from András Balogh to yourself and</p> <p>22 Mr. Kisjuhász also on July 5th, 2005. Is that --</p> <p>23 is that what this e-mail chain is?</p> <p>24 A Yes, I see the same.</p> <p>25 Q Okay. So is this an e-mail that you</p>	<p>1 page?</p> <p>2 A Yes.</p> <p>3 Q I need a complete answer, please.</p> <p>4 Do you mean, yes, it is accurate?</p> <p>5 A Yes, it -- it seems to be an accurate</p> <p>6 translation.</p> <p>7 Q And if you look at the notations on</p> <p>8 the third and fourth pages, can you tell me what</p> <p>9 they pertain to? What they say?</p> <p>10 A Can you rephrase the question,</p> <p>11 please?</p> <p>12 Q The handwritten notations on the</p> <p>13 third and fourth pages of Exhibit 94, can you tell</p> <p>14 me --</p> <p>15 A The handwritten notations?</p> <p>16 Q The handwritten notations, what they</p> <p>17 are pertain to?</p> <p>18 A First, I see here approved by P. P</p> <p>19 could be Parliament or something. The second one,</p> <p>20 it's -- can be hardly written -- readable. It's --</p> <p>21 it's hardly legible.</p> <p>22 Q Okay, you can't make it out?</p> <p>23 A No.</p> <p>24 Q What about the third notation?</p> <p>25 A The third notation, the end part is</p>
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<p>1 received from Mr. Balogh?</p> <p>2 A Yes.</p> <p>3 Q On about July 5th, 2005?</p> <p>4 A Yes.</p> <p>5 Q And can you tell me what the</p> <p>6 attachment is?</p> <p>7 A That attachment contains the list of</p> <p>8 contributed -- four contributed services, and the</p> <p>9 service fee proportion table to be put into the</p> <p>10 agreement.</p> <p>11 Q Okay. Is this the same attach --</p> <p>12 apart from the handwritten notes, is this the same</p> <p>13 attachment as we saw in Exhibit 93?</p> <p>14 A It appears to be the same document.</p> <p>15 Q Okay. Do you recognise the</p> <p>16 handwritten notations?</p> <p>17 A It could be mine. It could be</p> <p>18 others.</p> <p>19 Q Do you recognise the language the</p> <p>20 handwritten notations are written in?</p> <p>21 A The language is Hungarian.</p> <p>22 Q If you take a look at the first and</p> <p>23 second pages of Exhibit 94, can you tell me whether</p> <p>24 the English language translation appears to be an</p> <p>25 accurate translation of the Hungarian on the first</p>	<p>1 until 6 months.</p> <p>2 Q Okay. Do -- do these notations</p> <p>3 refresh your recollection in any way about any</p> <p>4 conversations that you may have had around this</p> <p>5 time period with anyone?</p> <p>6 A It could be, but I do not have</p> <p>7 exactly a recollection on this.</p> <p>8 Q Do you have any general recollection?</p> <p>9 A I had conversations during that time</p> <p>10 on this.</p> <p>11 Q And who did you have conversations</p> <p>12 with?</p> <p>13 A Mr. Balogh, and could be</p> <p>14 Mr. Vaczlavik.</p> <p>15 Q Okay. Do the -- do the handwritten</p> <p>16 notations refresh your memory as to specific</p> <p>17 subjects you discussed with either of those</p> <p>18 individuals?</p> <p>19 A No.</p> <p>20 Q So -- but the attachment in</p> <p>21 Exhibit 94, is that something that you received in</p> <p>22 the e-mail from Mr. Balogh on July 5th, 2005?</p> <p>23 A Yes.</p> <p>24 Q And what do you recall -- did you</p> <p>25 have discussions with Mr. Balogh around that time?</p>

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<p>1 A I had discussion with Mr. Balogh 2 around that time. 3 Q Okay. What do you recall about those 4 discussions? 5 A It was about general terms of the 6 agreement, how to finalise it, how to put it into 7 the content of the draft agreement. 8 Q Was Mr. Balogh giving you 9 instructions on those things? 10 A Yes. 11 Q And were his instructions consistent 12 with the terms of the attachment on Exhibit 94? 13 A Yes. 14 (PREVIOUSLY MARKED: Exhibit 4 was 15 tendered to the witness for identification) 16 Q I'm handing you an exhibit that's 17 been marked at a prior deposition as Exhibit 18 Number 4. 19 Exhibit Number 4 appears to be about 20 fifteen pages long. The front page, the caption 21 reads Consultancy Services Agreement among 22 Telemacedonia, Matáv RT, Chaptex Holdings Limited 23 and Cosmotelco Telecommunication Services SA. It's 24 dated 22 October, 2004. 25 Mr. Herczegh, have you seen Exhibit 4</p>	<p>1 document that's been marked Exhibit 95 2 Exhibit 95 is a 2-page document, 3 Bates numbers MT-MAK 1049241 and MT-MAK 1049241-T 4 The first page is an e-mail chain that appears to 5 be written in Hungarian, and the second page is an 6 e-mail chain written in English That appears to 7 be an English language translation of the first 8 page 9 (Exhibit Plaintiff's 95 marked for 10 identification) 11 BY MR DODGE: 12 Q Mr Herczegh, have you seen 13 Exhibit 95 before? 14 A Yes, I have seen Exhibit 95 before 15 Q And can you tell me what it is? 16 A It's an e-mail chain in which, at the 17 end, I ask -- I inform Mr Balogh that I received 18 the material, the content, and I'm asking 19 Mr Balogh, "Can we talk about the details how to 20 complete, finalise the draft agreement?" 21 Q First of all, I ask you to take a 22 look at the Hungarian on the first page and the 23 English on the second page, and can you tell me 24 whether the English translation appears to be an 25 accurate translation of what's written in</p>
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<p>1 before? 2 A Yes, I have seen Exhibit 4 before. 3 Q And what is it? 4 A It's a consultancy services agreement 5 between Telemacedonia, Matáv, Magyar Telekom at 6 that time, Chaptex and Cosmotelco. 7 Q Is it correct that Matáv, M-a-t-á-v, 8 was the prior corporate name of Magyar Telekom? 9 A Yes, that is correct. 10 Q And was Exhibit 4 -- is this a copy 11 of the document that you testified about earlier 12 that you used as a model for the 2005 draft? 13 A Yes. This was the template, the 14 sample, to prepare the 2005 agreement. 15 Q And where did you -- where did you 16 get your copy of -- of this agreement? 17 A I had the electronic version of this 18 document in my computer and, in the end of October, 19 2004, I was involved in the finalisation of this 20 document and the signing and closing tasks related 21 to this document. 22 Q When you say "this document", you 23 mean Exhibit 4? 24 A Yes. 25 MR. DODGE: I'm handing you a</p>	<p>1 Hungarian? 2 A (Witness reviewed the documents) 3 Yes, it appears to be an accurate translation. 4 Q So I'm looking at the English version 5 on the second page. You can look at either the 6 English or the Hungarian. 7 Starting with the e-mail on the 8 bottom, it's from András Balogh to Zsolt Herczegh 9 with a copy to Zoltán Kisjuhász and Peter Dankó. 10 The date is -- the date appears to be July 5th, 11 2005, at 10:20 a m., and -- actually, you know 12 what. Let me scratch that. I think I started 13 reading from the wrong place, didn't I? 14 A Excuse me, may I correct my previous 15 statements? 16 Q Sure. 17 A There is a minor translation which 18 could be relevant. The second sentence says, 19 "Could the terms of the first agreement be settled 20 by", but the Hungarian doesn't says "first". It 21 says "certain". 22 Q Okay. Will you just read the 23 statement for the record in Hungarian, please? 24 I take it that you're talking about -- the language 25 that you're talking about in the original</p>

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<p style="text-align: right;">Page 34</p> <p>1 Hungarian, could you just read it out --</p> <p>2 A Yes.</p> <p>3 Q -- loud, please?</p> <p>4 A The Hungarian says "egyes szerződéses</p> <p>5 feltételekről". In English it is "certain</p> <p>6 contractual conditions". So this should read, this</p> <p>7 sentence, like, "could certain terms of the</p> <p>8 contractual conditions be settled by phone" and not</p> <p>9 "the first".</p> <p>10 Q Okay. So let's go back to the e-mail</p> <p>11 at the centre of the page, on the second page, from</p> <p>12 Mr. Balogh to you with a copy to Mr. Kisjuhász and</p> <p>13 Mr. Dankó dated July 5th, 2005, at 10:20 a m.</p> <p>14 Is that an e-mail that -- that you</p> <p>15 received from Mr. Balogh at about -- at about that</p> <p>16 date and time?</p> <p>17 A Yes.</p> <p>18 Q And is that forwarding an e-mail from</p> <p>19 Mr. Szendrei to Mr. Balogh dated July 4th, 2005?</p> <p>20 A Yes.</p> <p>21 Q Okay. And moving up to the top of</p> <p>22 the page, the e-mail says it's from Dr. Zsolt</p> <p>23 Herczegh addressed to Mr. András Balogh dated July</p> <p>24 5th, 2005, 10:05.</p> <p>25 Is that an e-mail that you sent to</p>	<p style="text-align: right;">Page 36</p> <p>1 Mr. Balogh after receiving that e-mail, thanking</p> <p>2 Mr. Balogh for the material, but the time is 10:05.</p> <p>3 I can follow up on cross, if you</p> <p>4 want.</p> <p>5 BY MR. DODGE:</p> <p>6 Q Mr. Herczegh, do you see the time</p> <p>7 references that Mr. Sullivan just referred to?</p> <p>8 A I see the time reference.</p> <p>9 Q Do you have any understanding as to</p> <p>10 how that -- how the timing of those two e-mails</p> <p>11 relate to one another?</p> <p>12 A No, I don't know why there is</p> <p>13 a difference in the timing.</p> <p>14 Q Okay. So on the page, the e-mail</p> <p>15 that -- that you sent in response, appears to have</p> <p>16 an earlier time than the e-mail you were responding</p> <p>17 to. Is that the way you see it?</p> <p>18 A Based on this paper, yes. However,</p> <p>19 there could be technical details which I'm not able</p> <p>20 to explain.</p> <p>21 Q Okay. So do you have any firsthand</p> <p>22 knowledge of how Magyar Telekom's computer system</p> <p>23 applied date and time stamps to -- to e-mails?</p> <p>24 A No. It's too technical.</p> <p>25 Q Okay. Do you have a general</p>
<p style="text-align: right;">Page 35</p> <p>1 Mr. Balogh at about 10:05 on July 5th, 2005?</p> <p>2 A Yes.</p> <p>3 Q And you describe the question that</p> <p>4 you were asking Mr. Balogh.</p> <p>5 Did you have conversations with</p> <p>6 Mr. Balogh following sending him this e-mail?</p> <p>7 A Yes.</p> <p>8 Q Tell me about that conversation or</p> <p>9 those conversations?</p> <p>10 A As I recall, it was a phone</p> <p>11 conversation -- a phone conversation, and we</p> <p>12 discussed by phone how to finalise the draft</p> <p>13 agreement by putting into the specific details.</p> <p>14 Q Was Mr. Balogh providing you the</p> <p>15 specific details to put into the agreement?</p> <p>16 A Yes.</p> <p>17 Q And do you recall what specific</p> <p>18 details he provided to you?</p> <p>19 A By now I don't have a memory on this;</p> <p>20 on the details.</p> <p>21 MR. SULLIVAN: I'll just note for the</p> <p>22 record again, in connection with the e-mail chain,</p> <p>23 Bob, it looks like there was an e-mail sent by</p> <p>24 Mr. Balogh to Mr. Herczegh at 10:20, 5.7.2005, and,</p> <p>25 according to the testimony, he responded to</p>	<p style="text-align: right;">Page 37</p> <p>1 recollection as to the sequence of the e-mails?</p> <p>2 Which one came first and which one came second?</p> <p>3 A The sequence in this printed version</p> <p>4 is accurate.</p> <p>5 Q Okay. So when you say that, do you</p> <p>6 mean to say that the e-mail with the time stamp of</p> <p>7 10:05 was sent after the e-mail with the time stamp</p> <p>8 10:20?</p> <p>9 A Yes.</p> <p>10 Q Is that right?</p> <p>11 And do you have a recollection as to</p> <p>12 whether the dates, July 5th, 2005, on both e-mails,</p> <p>13 whether that appears to be consistent with your</p> <p>14 memory?</p> <p>15 A Yes, it's consistent with my memory.</p> <p>16 MR. DODGE: I'm handing you a</p> <p>17 document that's been marked Exhibit 96.</p> <p>18 Exhibit 96 is a 2-page document Bates</p> <p>19 number MT-MAK 1052083, the second page number</p> <p>20 1052083-T. The first page is an e-mail written in</p> <p>21 Hungarian dated July 5th, 2005, 5:19 a m. from</p> <p>22 András Balogh to Zsolt Herczegh. The second page</p> <p>23 appears to be an English language translation of</p> <p>24 the first page.</p> <p>25</p>

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<p>1 (Exhibit Plaintiff's 96 marked for 2 identification) 3 BY MR. DODGE: 4 Q Mr. Balogh(sic), have you seen 5 Exhibit 96 before. 6 MS. CONRY: Mr. Herczegh. 7 BY MR. DODGE: 8 Q I'm sorry. Mr. Herczegh. 9 I apologise. 10 A Yes, I have seen Exhibit 94 before. 11 Q 96? 12 A 96. 13 Q And can you tell me what Exhibit 96 14 is? 15 A It's just a response from Mr. Balogh 16 responding my previous question under Exhibit 95. 17 Q Is the first page of Exhibit 96 an 18 e-mail that you, in fact, received from Mr. Balogh 19 on or about July 5th, 2005? 20 A Yes. 21 Q And can you take a look at the 22 Hungarian on the first page, and the English on the 23 trans -- on the second page, and tell me whether 24 the English language translation appears to be an 25 accurate translation of the original Hungarian?</p>	<p>1 Mr. Herczegh, have you seen 2 Exhibit 42 before? 3 A Yes, I have seen Exhibit 42 before. 4 Q Can you tell me what it is? 5 A It's an e-mail in which the draft 6 consultancy agreement is sent out to Mr. Balogh and 7 Mr. Szendrei. 8 Q Can you -- will you please take a 9 look at the original Hungarian on the first page 10 and the English on the second page, and can you 11 tell me whether the English translation appears to 12 be an accurate translation of the original 13 Hungarian? 14 A (Witness reviewed the documents) It 15 seems to be an accurate translation. 16 Q Can you tell me who sent this e-mail? 17 A My recollection is that, that it was 18 me who sent out this e-mail from Mr. -- from 19 Mr. Péter Dankó's e-mail account. 20 Q And why did you send the e-mail from 21 Mr. Dankó's e-mail account? 22 A As I recall, he requested me, before 23 leaving to holiday, to send out the document from 24 his e-mail account. 25 Q Okay. So on Exhibit 42, is this, in</p>
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<p>1 A The English language translation 2 appears to be an accurate transcription of the 3 Hungarian. 4 Q Did -- the English says, "Of course, 5 just call me at any time". Did you call Mr. Balogh 6 after receiving this e-mail message? 7 A Yes. 8 Q And was that the conversation that 9 you just testified about a few moments ago? 10 A Yes. 11 MR. SULLIVAN: Note my recognition of 12 the appearing erroneous time. Again, I'll follow 13 up on cross. 14 (PREVIOUSLY MARKED: Exhibit 42 was 15 tendered to the witness for identification) 16 BY MR. DODGE: 17 Q I'm handing you a document now that's 18 been marked Exhibit Number 42. (Same handed) 19 Exhibit 42 appears to be a 17/18 page 20 document. The first page is an e-mail message 21 written in Hungarian from Péter Dankó to András 22 Balogh, Mr. Szendrei and Mr. Herczegh. The second 23 page appears to be an English language translation 24 of the first page, and the pages that follow are an 25 attachment with the heading consultancy agreement.</p>	<p>1 fact, at least the original Hungarian and the 2 attachment, is that -- is that an e-mail that you 3 sent on or about July 5th, 2005, to Mr. András 4 Balogh, to Mr. Attila Szendrei, with a copy to 5 yourself? 6 A Yes. 7 Q And tell me about the attachment. 8 What is the attachment? 9 A There are two attachments. The first 10 one is a draft consultancy agreement to be 11 concluded between Telemacedonia and Chaptex. It 12 contains the advisory services and the success fee 13 element table, which I received earlier under the 14 previously discussed exhibits. It's a draft 15 agreement. The date is blank, and the amount of 16 the advisory services are also blank because at 17 that time I didn't have the information about these 18 details. 19 And the second attachment is a draft 20 comfort letter based on the general information and 21 the guidances I received from Mr. Péter Dankó. 22 Q And when you refer to -- when you 23 said the comfort letter, are you referring to the 24 last page of Exhibit 42, Bates number 8327-T? 25 A Yes.</p>

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<p>1 Q And are these -- these are doc -- are</p> <p>2 these documents that you prepared?</p> <p>3 A Yes.</p> <p>4 Q Did -- now, noticing on the first</p> <p>5 page of Exhibit 42, the e-mail address for</p> <p>6 Mr. Szendrei is aszendrei@hotmail.com. Do you see</p> <p>7 that?</p> <p>8 A Yes.</p> <p>9 Q Why did you use that e-mail address?</p> <p>10 A As I recall, I was instructed to use</p> <p>11 that e-mail address.</p> <p>12 Q By whom?</p> <p>13 A It could be from Mr. Vaczlavik.</p> <p>14 Q Who else could it be from?</p> <p>15 A Excuse me?</p> <p>16 Q Who else could it have been from,</p> <p>17 that instruction?</p> <p>18 MR. SULLIVAN: Objection to the</p> <p>19 speculation.</p> <p>20 THE WITNESS: I don't want to</p> <p>21 speculate on this. I do not have crystal clear</p> <p>22 recollection. It could be Mr. Vaczlavik, but I'm</p> <p>23 not 100 per cent sure on this.</p> <p>24 BY MR. DODGE:</p> <p>25 Q Okay. Who at -- can you tell me the</p>	<p>1 Q You wrote in your e-mail -- I'm</p> <p>2 looking at the English language version in the</p> <p>3 first paragraph, the second sentence of your</p> <p>4 e-mail -- you write,</p> <p>5 "The draft was elaborated not as an</p> <p>6 addendum to the contract concluded between</p> <p>7 Telemacedonia, Chaptex, Matáv and Cosmotelco at the</p> <p>8 end of October 2004, but - though connected to the</p> <p>9 thematic area of the latter - as an independent new</p> <p>10 contract to be signed only by Telemacedonia and</p> <p>11 Chaptex".</p> <p>12 Can you explain why you wrote that</p> <p>13 sentence? What you were trying to communicate?</p> <p>14 A As I recall, these were the</p> <p>15 instructions, came from Mr. Dankó, or the</p> <p>16 information came from Dankó, Mr. Dankó, that this</p> <p>17 is not going to be a supplement or an addendum of</p> <p>18 the previously discussed agreement under Exhibit</p> <p>19 Number 4, but this should be a separate new</p> <p>20 agreement.</p> <p>21 Q And then, following on, there's</p> <p>22 a parenthetical which says,</p> <p>23 "(in case MakTel will be the main</p> <p>24 representative instead of Telemacedonia, please let</p> <p>25 me know, because then we [will] have to change the</p>
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<p>1 names of all the people you were having</p> <p>2 conversations with on the -- on the subject of this</p> <p>3 e-mail at about this time?</p> <p>4 A Mr. Balogh and Mr. Vaczlavik.</p> <p>5 Q Okay. And is it correct that someone</p> <p>6 gave you instructions to use this e-mail for</p> <p>7 Mr. Szendrei --</p> <p>8 A Yes.</p> <p>9 Q -- is that right?</p> <p>10 Would those instructions have had to</p> <p>11 come from one of the people that you were</p> <p>12 communicating with at that time?</p> <p>13 A Yes.</p> <p>14 Q So who -- what is the complete list</p> <p>15 of people who could have given you that -- that</p> <p>16 instruction?</p> <p>17 A Mr. Vaczlavik and Mr. Balogh.</p> <p>18 Q Were you given any explanation as to</p> <p>19 why to use this particular e-mail address for</p> <p>20 Mr. Szendrei?</p> <p>21 A I have a vague recollection or memory</p> <p>22 on this, but something like he was concerned that</p> <p>23 he is being tabbed.</p> <p>24 Q "He" meaning Mr. Szendrei?</p> <p>25 A Yes.</p>	<p>1 draft)".</p> <p>2 Did -- did you have a clear</p> <p>3 understanding on July 5th, 2004, who the</p> <p>4 contracting party was going to be in this draft</p> <p>5 agreement?</p> <p>6 A My instruction was that to prepare</p> <p>7 the document in a way that it's going to be</p> <p>8 concluded between Telemacedonia and Chaptex, but,</p> <p>9 if there is a change, we should amend the</p> <p>10 draft.</p> <p>11 But my initial understanding was that</p> <p>12 Telemacedonia is going to be the contracting party.</p> <p>13 Q Now, when you said that -- you refer</p> <p>14 to -- you used the phrase "connected to the</p> <p>15 thematic area". What did -- what did you mean by</p> <p>16 -- by that particular phrase?</p> <p>17 A That phrase means that it is somehow</p> <p>18 connected to the October 2004 agreement.</p> <p>19 Q Did you have any understanding, in</p> <p>20 July of 2005, whether there was overlap between the</p> <p>21 services to be provided in the 2004 agreement and</p> <p>22 the services to be provided in the 2005 agreement?</p> <p>23 A I did not analyse independently</p> <p>24 whether there is an overlap or not between the two</p> <p>25 documents.</p>

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<p>1 Q Did you have any understanding in</p> <p>2 2005, just based on -- on your role and the roles</p> <p>3 of other people in the company, who at Magyar</p> <p>4 Telekom would have been responsible for determining</p> <p>5 whether the services being provided under the 2005</p> <p>6 agreement were already covered in the 2004</p> <p>7 agreement?</p> <p>8 A I do -- I didn't have a crystal clear</p> <p>9 understanding. What my understanding was, foreign</p> <p>10 subsidiaries, including Macedonia, were belonging</p> <p>11 to the strategic area of Magyar Telekom at that</p> <p>12 time.</p> <p>13 Q Okay. And who was in charge of the</p> <p>14 strategic area at that time?</p> <p>15 A At that time, Mr. András Balogh was</p> <p>16 the head of the strategic area of Magyar Telekom.</p> <p>17 Q Did you have any conversations with</p> <p>18 Mr. Balogh about whether the work to be done under</p> <p>19 the 2005 agreement should have been done under the</p> <p>20 2004 agreement instead?</p> <p>21 A I didn't have a recollection -- I do</p> <p>22 not have a recollection on this.</p> <p>23 Q Going back to the discussion in your</p> <p>24 e-mail about whether Telemacedonia or MakTel would</p> <p>25 be the contracting party under the 2005 draft, what</p>	<p>1 A Mr. Dankó.</p> <p>2 Q And one other thing about Exhibit 42,</p> <p>3 you said the attachments are documents that -- that</p> <p>4 you prepared, is that right?</p> <p>5 A Yes.</p> <p>6 Q And if you look at the page numbering</p> <p>7 on the draft agreement?</p> <p>8 A Yes.</p> <p>9 Q You'll notice it goes from page 13 to</p> <p>10 page 15. These are Bates numbers 8323-T and</p> <p>11 8324-T. Does there appear to be a page missing</p> <p>12 there?</p> <p>13 A It appears to be page number 14 is</p> <p>14 missing.</p> <p>15 Q When you drafted the -- this draft</p> <p>16 consultancy agreement, did it have a page 14?</p> <p>17 A Yes.</p> <p>18 Q So, apart from the missing page 14,</p> <p>19 have you been able to look at the draft consulting</p> <p>20 agreement and can you tell me whether this appears</p> <p>21 to be otherwise an accurate copy of the draft that</p> <p>22 you prepared?</p> <p>23 A Yes, other than this, it seems to be</p> <p>24 an appropriate copy.</p> <p>25 Q On the comfort letter, the last page,</p>
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<p>1 was your understanding of what Telemacedonia was?</p> <p>2 A My understanding was that</p> <p>3 Telemacedonia at that time was 100 per cent owned</p> <p>4 subsidiary of Magyar Telekom, and it was</p> <p>5 responsible for advisory-related activities. It</p> <p>6 was one of the investments of Magyar Telekom in</p> <p>7 Macedonia.</p> <p>8 Q And what was -- what was MakTel,</p> <p>9 M-a-k-T-e-l?</p> <p>10 A MakTel at that time was the national</p> <p>11 telecommunications company in Macedonia.</p> <p>12 Q MakTel was an abbreviation, is that</p> <p>13 right.</p> <p>14 A Yes.</p> <p>15 Q And what was the full name?</p> <p>16 A Makedonski TeleComunikac II.</p> <p>17 Q You notice I didn't try to say that</p> <p>18 myself; I let you say it.</p> <p>19 Looking at the last page of</p> <p>20 Exhibit 42, this is the comfort letter that you</p> <p>21 described?</p> <p>22 A Yes.</p> <p>23 Q Did you draft the comfort letter?</p> <p>24 A Yes.</p> <p>25 Q Who told you to prepare it?</p>	<p>1 it's prepared for the signature of Mr. Elek Straub,</p> <p>2 is that right?</p> <p>3 A Yes.</p> <p>4 Q And who was Mr. Straub?</p> <p>5 A At that time Mr. Elek Straub was the</p> <p>6 chief executive officer of Magyar Telekom.</p> <p>7 Q And do you know whether Mr. Straub</p> <p>8 ever signed a version of this comfort letter?</p> <p>9 A No, I do not have information on</p> <p>10 this.</p> <p>11 Q And I believe you testified, just</p> <p>12 correct me if I'm wrong, that the dates were left</p> <p>13 blank in the draft agreement and the draft comfort</p> <p>14 letter, and I believe you testified that you didn't</p> <p>15 have information on what dates to put in, is that</p> <p>16 right?</p> <p>17 A Yes, it was sent out as draft</p> <p>18 documents but leaving the date blank. Paragraph</p> <p>19 number 3 of the cover e-mail explains this.</p> <p>20 Q So are you referring to the language</p> <p>21 on the bottom of your e-mail where it says, "fill</p> <p>22 in the data from the square brackets accordingly</p> <p>23 (dates on the title page and the 3rd page,</p> <p>24 success-based fee on the 5th page, signatories on</p> <p>25 the 13th page)"?</p>

13 (Pages 46 to 49)

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<p style="text-align: right;">Page 50</p> <p>1 A Yes, I was referring to that part.</p> <p>2 Q So the -- the draft consulting</p> <p>3 agreement attached to Exhibit 42, do you know if</p> <p>4 that -- if the agreement was ever executed in that</p> <p>5 form or did the agreement undergo subsequent</p> <p>6 changes?</p> <p>7 A The draft was subject later on</p> <p>8 changes.</p> <p>9 MR. DODGE: I'm handing you a</p> <p>10 document that's been marked as Exhibit Number 97.</p> <p>11 Exhibit Number 7(sic) appears to be</p> <p>12 approximately...</p> <p>13 Exhibit Number 97 appears to be</p> <p>14 approximately 10/12 pages long. The first three</p> <p>15 pages appear to be an e-mail chain. Actually, the</p> <p>16 first page appears to be an e-mail chain, partially</p> <p>17 in English and partially in Hungarian. The second</p> <p>18 page and the third page appear to be an English</p> <p>19 language translation of the first page. And then</p> <p>20 on the fourth page to the end, appear to be an</p> <p>21 attachment to the e-mail chain.</p> <p>22 (Exhibit Plaintiff's 97 marked for</p> <p>23 identification)</p> <p>24 BY MR. DODGE:</p> <p>25 Q Mr. Herczegh, can you tell me whether</p>	<p style="text-align: right;">Page 52</p> <p>1 Q Do you -- can you identify that as</p> <p>2 an e-mail address belonging to Mr. Mihail</p> <p>3 Kefaloyannis?</p> <p>4 A It appears to be an e-mail address</p> <p>5 connected to Mr. Kefaloyannis.</p> <p>6 Q Okay. And I think we already</p> <p>7 testified about your understanding of who</p> <p>8 Mr. Kefaloyannis was, is that right?</p> <p>9 A Yes. My understanding was that he is</p> <p>10 connected to the Cosmotelco group.</p> <p>11 Q And the e-mail text on the bottom</p> <p>12 says,</p> <p>13 "Michael, This text will be amended</p> <p>14 and MakTel will contract with Chaptex. Deliverable</p> <p>15 scope will be divided into 4 and one will be used</p> <p>16 for the immediate transaction".</p> <p>17 Did you have an understanding of what</p> <p>18 it meant where it said "deliverable scope will be</p> <p>19 divided into 4"?</p> <p>20 A My understanding was that; that,</p> <p>21 compared to the consultancy tasks, attached to</p> <p>22 previous e-mails, discussed under previous</p> <p>23 exhibits, those would be divided into four.</p> <p>24 Q So the one contract would be divided</p> <p>25 into four separate contracts, is that right?</p>
<p style="text-align: right;">Page 51</p> <p>1 you've seen Exhibit 97 before?</p> <p>2 A Yes, I have seen Exhibit 97 before.</p> <p>3 Q And what is it?</p> <p>4 A It's an e-mail chain starting from</p> <p>5 Mr. Balogh to Mr. Mihail Kefaloyannis, and then</p> <p>6 continuing from Mr. Kefaloyannis to Mr. Balogh, and</p> <p>7 then from Mr. Balogh to me.</p> <p>8 Q So is this e-mail chain in Exhibit 97</p> <p>9 a message that you received from Mr. Andr�s Balogh</p> <p>10 on or about July 7, 2005?</p> <p>11 A Yes.</p> <p>12 Q And if you take a look at the</p> <p>13 Hungarian portion on the first page of Exhibit 97</p> <p>14 and the English language translation on the second</p> <p>15 page and tell me if the English translation appears</p> <p>16 to be an accurate translation of the original</p> <p>17 Hungarian?</p> <p>18 A (Witness reviewed the documents) It</p> <p>19 seems to be an accurate translation.</p> <p>20 Q And turning your attention to the</p> <p>21 bottom of the -- the bottom of the first page,</p> <p>22 the original where it says original message</p> <p>23 from Andr�s Balogh dated July 6, 2005,</p> <p>24 kefaloyannis@cosmotelco.com, do you see that?</p> <p>25 A Yes.</p>	<p style="text-align: right;">Page 53</p> <p>1 A Yes. One omnibus contract should</p> <p>2 have been divided into four.</p> <p>3 Q And where it says "MakTel will</p> <p>4 contract with Chaptex", did you have an</p> <p>5 understanding of what that meant?</p> <p>6 A My understanding was that it meant</p> <p>7 that the contracting party should have been</p> <p>8 amended.</p> <p>9 Q Amended from what to what?</p> <p>10 A From Telemacedonia to MakTel.</p> <p>11 Q Did you ever -- did you receive any</p> <p>12 explanation as to why that change would be made?</p> <p>13 A I don't recall for an explanation on</p> <p>14 this.</p> <p>15 Q And then, if you look at the middle</p> <p>16 -- the middle e-mail, it says -- this appears to be</p> <p>17 an e-mail message from Mr. Kefaloyannis to</p> <p>18 Mr. Balogh. Is that how you understand that?</p> <p>19 A Yes.</p> <p>20 Q And Mr. Kefaloyannis writes, "Andr�s,</p> <p>21 The draft you sent me is too complicated. I am</p> <p>22 sending you simpler draft". And then the -- the</p> <p>23 text -- the text goes on.</p> <p>24 Did you receive a copy of the</p> <p>25 simplified draft Mr. Kefaloyannis was referring to?</p>

14 (Pages 50 to 53)

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<p style="text-align: right;">Page 54</p> <p>1 A Yes, I have received the simplified</p> <p>2 draft.</p> <p>3 Q Okay. Was the simplified draft</p> <p>4 attached to e-mail -- Exhibit 97?</p> <p>5 A Yes, the simplified draft is attached</p> <p>6 to Exhibit 97.</p> <p>7 Q Okay. So is that the document at</p> <p>8 Bates numbers MT-MAK 8330-T to MT-MAK 8340-T?</p> <p>9 A Yes.</p> <p>10 Q And then, if you look at the top</p> <p>11 e-mail from Mr. Balogh to you, July 7, 2005, he</p> <p>12 writes, "Please read it ASAP. I myself agree with</p> <p>13 the simplification. We should finalize it" -- "We</p> <p>14 should finalize it today with Szendrei Attila".</p> <p>15 Can you tell me what your</p> <p>16 understanding was of this e-mail?</p> <p>17 A It was basically an instruction to</p> <p>18 forget the previous draft I sent out from</p> <p>19 Mr. Dankó's account, and discussed under a previous</p> <p>20 exhibit, and use the new draft.</p> <p>21 Q The one prepared by Mr. Kefaloyannis?</p> <p>22 A The one attached to the e-mail chain</p> <p>23 with Mr. Balogh and Mr. Kefaloyannis. I don't know</p> <p>24 whether he prepared or someone else the changes;</p> <p>25 the additions.</p>	<p style="text-align: right;">Page 56</p> <p>1 recollection is that -- that it took place in</p> <p>2 Mr. Balogh's office Mr. Balogh was not present, so</p> <p>3 it was a face-to-face conversation about finalising</p> <p>4 the agreement in this new form.</p> <p>5 Q Do you remember anything more about</p> <p>6 what either Mr. Szendrei said to you or what you</p> <p>7 said to him during that meeting?</p> <p>8 A Yes. My recollection is that the</p> <p>9 conversation covered the signing authority within</p> <p>10 MakTel, and it also covered a double-check, what</p> <p>11 kind of agreements should be approved by the board</p> <p>12 of directors of MakTel and what kind of agreements</p> <p>13 can be signed by the CEO and the CFO of MakTel.</p> <p>14 Q So what did -- what did you and</p> <p>15 Mr. Szendrei discuss on those subjects?</p> <p>16 A We had --</p> <p>17 Q Let me start -- let me start with you</p> <p>18 mentioned board approval. So what did you and</p> <p>19 Mr. Szendrei discuss on the subject of board</p> <p>20 approval?</p> <p>21 A The discussion was about that, above</p> <p>22 one million Euro, contracts should be approved by</p> <p>23 MakTel's board, and, below one million Euro, the</p> <p>24 contract can be signed by Mr. Szendrei and</p> <p>25 Mr. Plath, at that time the CFO of MakTel.</p>
<p style="text-align: right;">Page 55</p> <p>1 Q I appreciate the -- the</p> <p>2 clarification.</p> <p>3 So the new draft would be the one</p> <p>4 that Mr. Kefaloyannis sent to Mr. Balogh, and</p> <p>5 Mr. Balogh forwarded to you, is that right?</p> <p>6 A Yes, and the new draft is</p> <p>7 going to be the new starting point.</p> <p>8 Q You testified earlier that</p> <p>9 Mr. Szendrei was the CEO of MakTel, is that right?</p> <p>10 A Yes.</p> <p>11 Q And did he -- was -- where was he</p> <p>12 located at that time? Where did he work?</p> <p>13 A On this day, he was in Budapest.</p> <p>14 Q Okay. In general, where did he work?</p> <p>15 A My general understanding was that he</p> <p>16 is located in Macedonia.</p> <p>17 Q But you said that on July 7, 2005,</p> <p>18 Mr. Szendrei was in -- was in Budapest?</p> <p>19 A Yes, on a business trip.</p> <p>20 Q Okay. Did you meet with</p> <p>21 Mr. Szendrei?</p> <p>22 A Yes.</p> <p>23 Q And tell me about the discussions you</p> <p>24 had?</p> <p>25 A It was a personal discussion. My</p>	<p style="text-align: right;">Page 57</p> <p>1 Q You said Mr. Plath, P-l-a-t-h, was</p> <p>2 the CFO of MakTel at that time, is that right?</p> <p>3 A Yes, that was my understanding.</p> <p>4 Q And turning back to -- I'm sorry,</p> <p>5 Exhibit 97, the proposed attachment. Is there</p> <p>6 a fee schedule attached to this? Is there a fee</p> <p>7 amount in this?</p> <p>8 A Excuse me, which exhibit?</p> <p>9 Q 97?</p> <p>10 A 97, yes. (Witness reviewed the</p> <p>11 document) Yes, there is a fee schedule.</p> <p>12 Q Can you bring me to the right page?</p> <p>13 A It's on page 10.</p> <p>14 Q Okay. I have that as the success</p> <p>15 elements. I'm wondering if the exhibits attached</p> <p>16 to Exhibit 97 identifies the amount -- the amount</p> <p>17 of the payments that would be made under this</p> <p>18 draft? Or was that still left blank?</p> <p>19 A If we see page number 3 of the</p> <p>20 attachment.</p> <p>21 Q So this is at Bates MT-MAK 8332-T, is</p> <p>22 that right?</p> <p>23 A Yes.</p> <p>24 Q And is there a reference in here to</p> <p>25 the amount of payment that would be made under this</p>

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<p>1 draft?</p> <p>2 A Yes.</p> <p>3 Q And what is the amount of the</p> <p>4 payment?</p> <p>5 A The amount is Euro 9 thousand --</p> <p>6 sorry, 980,000.</p> <p>7 Q And was that amount part of the</p> <p>8 discussion that you had with Mr. Szendrei on</p> <p>9 July 7th?</p> <p>10 A We have generally discussed the</p> <p>11 approval threshold limit, so yes.</p> <p>12 Q Okay. So, in connection with the</p> <p>13 draft attached to Exhibit 97 with a maximum payment</p> <p>14 of 980,000 Euros, am I correct that your discussion</p> <p>15 with Mr. Szendrei on July 7th had to do with board</p> <p>16 approval being required for contracts above</p> <p>17 a million Euros?</p> <p>18 A Yes, it covered the double-check by</p> <p>19 myself in the so called by-laws of the board of</p> <p>20 directors of MakTel.</p> <p>21 Q And what sort of double-check did you</p> <p>22 do?</p> <p>23 A I checked the document, which</p> <p>24 included the scope of authority of MakTel's board.</p> <p>25 So it was a check -- I don't recall whether it was</p>	<p>1 VIDEOGRAPHER: Going back on the</p> <p>2 record at 11:28 a m.</p> <p>3 MR. SULLIVAN: Bob, before you begin,</p> <p>4 I just want to, for the record, lodge a hearsay</p> <p>5 objection to testimony relating to conversations</p> <p>6 with others who are not defendants in this case</p> <p>7 under 803 hearsay rule. Thanks.</p> <p>8 MR. DODGE: I'm prepared to stipulate</p> <p>9 that all hearsay objections are preserved.</p> <p>10 MR. SULLIVAN: That's the only reason</p> <p>11 we're going to bring it up.</p> <p>12 MR. KOENIG: The last time we had the</p> <p>13 same issue with regard to what objections were</p> <p>14 preserved or not. You agree that we preserve all</p> <p>15 objections.</p> <p>16 MR. DODGE: Hearsay objections are</p> <p>17 preserved. Form objections -- I mean, this is my</p> <p>18 understanding of the Federal Rules, that form</p> <p>19 objections you need to make here because that will</p> <p>20 give me an opportunity to correct the question.</p> <p>21 But hearsay objections are preserved.</p> <p>22 MR. SULLIVAN: I appreciate that. We</p> <p>23 just didn't do the stips beforehand, but you're</p> <p>24 right.</p> <p>25</p>
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<p>1 an electronic version or a paper version, but</p> <p>2 a document.</p> <p>3 Q Did Mr. Szendrei ask you to -- to</p> <p>4 check that?</p> <p>5 A I have a vague recollection that</p> <p>6 it could be a request from him. It was</p> <p>7 a double-check.</p> <p>8 Q You said you were meeting with</p> <p>9 Mr. Szendrei in Mr. Balogh's office. Was anyone</p> <p>10 else present?</p> <p>11 A No, no-one else was present.</p> <p>12 MR. SULLIVAN: Excuse me, Bob.</p> <p>13 MR. DODGE: You're looking at your</p> <p>14 watch?</p> <p>15 MR. SULLIVAN: I am. I'm just</p> <p>16 wondering if there might be a break. I think the</p> <p>17 court reporter might be interested.</p> <p>18 MR. DODGE: We'll take a short break</p> <p>19 now.</p> <p>20 MR. SULLIVAN: 5, 10 minutes is fine,</p> <p>21 yes.</p> <p>22 VIDEOGRAPHER: Going off the record</p> <p>23 at 11:13 a m.</p> <p>24 (A short recess at 11:13 a m.)</p> <p>25 (Resumed at 11:28 a m.)</p>	<p>1 BY MR. DODGE:</p> <p>2 Q Okay, so, Mr. Herczegh, you're</p> <p>3 looking still at Exhibit 97, and if you'd turn to</p> <p>4 the second page, page 8328-T?</p> <p>5 A Yes.</p> <p>6 Q And in the top portion of the e-mail</p> <p>7 from Mr. Balogh to you he writes, "We should</p> <p>8 finalize it today with Szendrei Attila". Do you</p> <p>9 see that?</p> <p>10 A Yes.</p> <p>11 Q So what were you -- what was your</p> <p>12 understanding of what needed to be finalised?</p> <p>13 A The draft document to be prepared to</p> <p>14 send out.</p> <p>15 Q Okay. Were you given any instruction</p> <p>16 as to why it needed to be finalised that day?</p> <p>17 A I don't have a specific recollection</p> <p>18 on this. I felt my understanding at that time was</p> <p>19 that I am under time pressure.</p> <p>20 Q Okay. And the conversation you had</p> <p>21 with Mr. Szendrei on July 7th, was that in response</p> <p>22 to the e-mail instruction you received from</p> <p>23 Mr. Balogh?</p> <p>24 A Yes.</p> <p>25 Q Okay. Now, looking at the attachment</p>

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<p>1 to Exhibit 97, you're familiar with the Microsoft</p> <p>2 Word software programme?</p> <p>3 A Yes.</p> <p>4 Q You're familiar with the track</p> <p>5 changes feature?</p> <p>6 A Yes. This document has a track</p> <p>7 changes feature.</p> <p>8 Q Okay. The changes that are reflected</p> <p>9 in the attachment, were those changes that you made</p> <p>10 to the document or, when you received the document,</p> <p>11 did it already have those changes in it?</p> <p>12 A These documents -- or these</p> <p>13 amendments and additions were already in the</p> <p>14 document when I received it.</p> <p>15 Q I'm going to hand you document that's</p> <p>16 been marked in a previous exhibit -- previous</p> <p>17 deposition as Exhibit 43. (Same handed)</p> <p>18 (PREVIOUSLY MARKED: Exhibit 43 was</p> <p>19 tendered to the witness for identification)</p> <p>20 Exhibit 43 is about 8 to 10 pages in</p> <p>21 length. The first page is an e-mail from András</p> <p>22 Balogh to Mihail Kefaloyannis. And below that is</p> <p>23 an e-mail from Zsolt Herczegh to András Balogh with</p> <p>24 a copy to Ferenc Vaczlavik dated July 7, 2005. And</p> <p>25 then the second page and following appears to be an</p>	<p>1 Q And the attachment to Exhibit 43,</p> <p>2 what is that?</p> <p>3 A The attachment is a new version of</p> <p>4 the draft consultancy agreement, which I put</p> <p>5 together based on the information received in</p> <p>6 e-mails and documents covered under previous</p> <p>7 exhibits.</p> <p>8 Q Okay. And turning to your e-mail,</p> <p>9 you began, "I reviewed the draft Consultancy</p> <p>10 Agreement sent by Michael on 6th June". Do you see</p> <p>11 that?</p> <p>12 A Yes.</p> <p>13 Q Who does Michael refer to?</p> <p>14 A Michael here refers to Mr. Mihail</p> <p>15 Kefaloyannis.</p> <p>16 Q And when you write 6th June, was that</p> <p>17 date correct or are you thinking of a different</p> <p>18 month?</p> <p>19 A It's an unintentional mistake by</p> <p>20 myself. It refers to the e-mail chain we discussed</p> <p>21 under Exhibit 97.</p> <p>22 Q Okay. So, instead of 6th June, what</p> <p>23 would the correct date have been?</p> <p>24 A The correct date should have been</p> <p>25 6th July.</p>
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<p>1 attachment with the label consultancy agreement.</p> <p>2 Mr. Herczegh, turning your -- have</p> <p>3 you seen Exhibit 43 before?</p> <p>4 A I have the e-mail in the bottom and</p> <p>5 the attachment. I had in 2005.</p> <p>6 Q So is it correct that -- I guess,</p> <p>7 below the -- the horizontal line on the first page</p> <p>8 of Exhibit 43, is this an e-mail that you sent on</p> <p>9 or about July 7, 2005, to András Balogh and Ferenc</p> <p>10 Vaczlavik?</p> <p>11 A Yes.</p> <p>12 Q And this e-mail is written in</p> <p>13 English. Did you initially compose it in English?</p> <p>14 A Yes. This e-mail was written by me</p> <p>15 in English.</p> <p>16 Q And why was that?</p> <p>17 A My general understanding was that,</p> <p>18 that this were to be forwarded to Mr. Kefaloyannis,</p> <p>19 and I wanted to make the colleagues' work easier,</p> <p>20 and that's why I wrote in English.</p> <p>21 Q Did you have an understanding of</p> <p>22 whether Mr. Kefaloyannis -- what -- what his</p> <p>23 nationality was?</p> <p>24 A My general understanding was that,</p> <p>25 that he's a Greek national.</p>	<p>1 Q And so when you referred to the draft</p> <p>2 consultancy agreement, you were speaking of the</p> <p>3 draft attached to Exhibit 97, is that right?</p> <p>4 A Yes.</p> <p>5 Q Now, if we look at the attachment,</p> <p>6 the second page of Exhibit 43, on the bottom of the</p> <p>7 first page of the attachment it says concerning</p> <p>8 frequency fee related activities?</p> <p>9 A Yes, I see that.</p> <p>10 Q Can you describe the difference in</p> <p>11 the scope of this draft of the consultancy</p> <p>12 agreement from prior drafts that you had prepared?</p> <p>13 A The scope has been changed. Instead</p> <p>14 of four consultancy tasks, it is focusing on the</p> <p>15 consultancy task number 1, advisory consultancy</p> <p>16 activities created to frequency fee matters.</p> <p>17 Q I just want to make sure the court</p> <p>18 reporter is getting this. When you say -- you're</p> <p>19 saying consultancy tasks, with a K, rather than</p> <p>20 consultancy tests?</p> <p>21 A Tasks.</p> <p>22 Q T-a-s-k, right?</p> <p>23 A Yes.</p> <p>24 Q I just want to make sure that the</p> <p>25 transcript is clear on that.</p>

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<p>1 Now, on the second paragraph of your</p> <p>2 e-mail to Mr. Balogh, you write,</p> <p>3 "Please note that I inserted</p> <p>4 '30th June' as deadline for the fulfilment of the</p> <p>5 Consultant's obligations in Schedule 1". Then the</p> <p>6 sentence goes on.</p> <p>7 But why did you insert June 30th as</p> <p>8 -- as the deadline?</p> <p>9 A My general recollection is that</p> <p>10 everything in the second paragraph, the information</p> <p>11 is coming from the discussion with Mr. Szendrei on</p> <p>12 this date.</p> <p>13 Q On?</p> <p>14 A On 7th July.</p> <p>15 Q 2005?</p> <p>16 A 2005, yes.</p> <p>17 Q Okay. So is it your recollection</p> <p>18 that you were instructed by Mr. Szendrei on</p> <p>19 July 7th to insert June 30th as the -- as the</p> <p>20 deadline?</p> <p>21 A I don't -- don't have a specific</p> <p>22 recollection. I would phrase this in a way that</p> <p>23 every information I got channelled into that</p> <p>24 result. So I don't recall a specific instruction</p> <p>25 on this to insert June 30th as a performance</p>	<p>1 Q Is that something that you came up</p> <p>2 with on your own?</p> <p>3 A I -- I felt that the deadlines do not</p> <p>4 match. That is why I wrote some kind of penalty</p> <p>5 notification or a warning in the third paragraph.</p> <p>6 Q Okay. Well, let's back up a little</p> <p>7 bit, and start with simply the insertion of the</p> <p>8 June 30th date into the draft agreement.</p> <p>9 And I want to get some clarification</p> <p>10 on whether it was your idea to put the June 30th</p> <p>11 date in the agreement or whether you had</p> <p>12 instruction from someone else to put that date in</p> <p>13 the agreement.</p> <p>14 MR. SULLIVAN: Objection. That's</p> <p>15 been asked and answered.</p> <p>16 THE WITNESS: I do not have a crystal</p> <p>17 clear recollection on this.</p> <p>18 BY MR. DODGE:</p> <p>19 Q Okay. So let's look to the third</p> <p>20 paragraph of your e-mail. And you wrote,</p> <p>21 "If the Consultant agrees with the</p> <p>22 new draft, the signing date must be carefully</p> <p>23 selected since the performance deadline was</p> <p>24 30th June".</p> <p>25 What were you intending to</p>
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<p>1 certificate deadline.</p> <p>2 Q But the June 30th date, was that --</p> <p>3 that wasn't a date that you came up with on your</p> <p>4 own, was it?</p> <p>5 A I don't think that it was my</p> <p>6 invention.</p> <p>7 Q Okay. Is it your recollection that</p> <p>8 somebody gave you that date to put in the contract?</p> <p>9 A Could be.</p> <p>10 Q But you're not sure?</p> <p>11 A I'm not 100 per cent sure on this.</p> <p>12 Q Is it possible that you made up the</p> <p>13 date?</p> <p>14 A Excuse me?</p> <p>15 Q Is it possible that you made up the</p> <p>16 date?</p> <p>17 A It could be possible.</p> <p>18 Q Now, at this time, your e-mail was</p> <p>19 written on July 7th of 2005, and the June 30th date</p> <p>20 was already a date in the past.</p> <p>21 Did you have any understanding at</p> <p>22 that time of why the performance deadline would be</p> <p>23 earlier in time than -- than the date of your</p> <p>24 e-mail?</p> <p>25 A No.</p>	<p>1 communicate there?</p> <p>2 A My intention by formulating these</p> <p>3 sentences was to notify the parties involved in</p> <p>4 this matter that the actual deadline of the</p> <p>5 correspondence and the potential signing of the</p> <p>6 agreement -- the potential date of the signing of</p> <p>7 this consultancy agreement do not match with those</p> <p>8 deadlines which were already expired.</p> <p>9 Q And why did you think it was</p> <p>10 important to make that notification?</p> <p>11 A I just wanted to notify them to think</p> <p>12 it over.</p> <p>13 Q Was -- the fact that the performance</p> <p>14 deadline was earlier than your e-mail, was that</p> <p>15 something that you had some discomfort with?</p> <p>16 A I had a low level of discomfort with</p> <p>17 this.</p> <p>18 Q And why -- why did you have a low</p> <p>19 level of discomfort?</p> <p>20 A I had a general understanding at that</p> <p>21 time that Magyar Telekom and its subsidiaries had</p> <p>22 already established contractual relationship with</p> <p>23 Chaptex, so the parties know each other. They had</p> <p>24 contracts; consultancy contract from October 2004.</p> <p>25 Also another agreement, which we have</p>

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<p>1 discussed under Exhibit 97. It is also referring</p> <p>2 to an already signed agreement. That is why my</p> <p>3 understanding was that the parties are fine with</p> <p>4 each other.</p> <p>5 The other factor was that the</p> <p>6 deadline was only a few days back in the past.</p> <p>7 Q Okay. So are you -- the answer you</p> <p>8 just gave me, are you explaining to me why your</p> <p>9 concern was a low level rather than a high level?</p> <p>10 Or are you explaining to me why you had a concern</p> <p>11 at all?</p> <p>12 A It explains the low level discomfort.</p> <p>13 Q Okay. Why did you have any</p> <p>14 discomfort at all?</p> <p>15 A A simple fact that the dates do not</p> <p>16 fit.</p> <p>17 Q Now, at this time in July of 2005,</p> <p>18 how long had you been working for Magyar Telekom?</p> <p>19 A Less than 2 years.</p> <p>20 Q Less than 2 years. And you testified</p> <p>21 earlier that you were a junior attorney at the</p> <p>22 company, is that right?</p> <p>23 A Yes.</p> <p>24 Q In your experience, had you seen any</p> <p>25 other instances of a backdated contract such as</p>	<p>1 many questions in my mind, but I wanted to notify</p> <p>2 the parties that the sequence of the events would</p> <p>3 not fit at the end. But I considered the document</p> <p>4 I sent out still as a draft.</p> <p>5 Excuse me if I ask that for</p> <p>6 rephrasing the question.</p> <p>7 Q No, I told you at the beginning; if</p> <p>8 there's any question that I ask that you have any--</p> <p>9 that you find unclear in any way, then I would like</p> <p>10 you to let me know and give me a chance to ask the</p> <p>11 question again and rephrase it in a way that -- to</p> <p>12 clear that up.</p> <p>13 A Okay.</p> <p>14 Q So any future questions, if you find</p> <p>15 anything confusing about them, please do let me</p> <p>16 know.</p> <p>17 A Okay.</p> <p>18 Q Did anyone, around this time July 7,</p> <p>19 2005, give you any -- give you any explanation as</p> <p>20 to why the date of performance should be earlier</p> <p>21 than the date that you were -- you were writing it?</p> <p>22 A No, I do not have a recollection on</p> <p>23 this.</p> <p>24 Q In the last sentence of the first</p> <p>25 page of Exhibit 43 you say, "we can use the</p>
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<p>1 this?</p> <p>2 A No.</p> <p>3 Q Did you have any understanding</p> <p>4 whether it was proper or not proper to use</p> <p>5 a backdated contract?</p> <p>6 A No.</p> <p>7 Q Did it raise a question in your mind</p> <p>8 about whether it might or might not be proper to</p> <p>9 use a backdated contract? A backdated date?</p> <p>10 MR. KOENIG: I'm going to object to</p> <p>11 the form of that question, Bob.</p> <p>12 BY MR. DODGE:</p> <p>13 Q You can answer.</p> <p>14 A Can you please rephrase the question?</p> <p>15 COURT REPORTER: "Q. Did it raise a</p> <p>16 question in your mind about whether it might or</p> <p>17 might not be proper to use a backdated contract?"</p> <p>18 THE WITNESS: In other words?</p> <p>19 BY MR. DODGE:</p> <p>20 Q Okay. Did -- on July 7, 2005, was</p> <p>21 there any question in your mind about whether it</p> <p>22 was proper to have a -- a backdated contract?</p> <p>23 MR. KOENIG: Object to form.</p> <p>24 MS. FRIED: Object to form.</p> <p>25 THE WITNESS: It didn't raise too</p>	<p>1 document as a skeleton when we prepare the three</p> <p>2 additional agreements".</p> <p>3 What did you -- what did you mean</p> <p>4 there?</p> <p>5 A The instruction I received and</p> <p>6 discussed under earlier exhibits refers to that;</p> <p>7 that the instruction was to separate the omnibus</p> <p>8 contract and consultancy tasks into four separate</p> <p>9 agreement.</p> <p>10 And the last sentence refers to that;</p> <p>11 this document could be a template for consultancy</p> <p>12 agreements covering task -- tasks number 2, 3 and</p> <p>13 4, discussed under earlier exhibits.</p> <p>14 Q Now, turning your attention to the</p> <p>15 performance tasks identified in the draft</p> <p>16 consultancy agreement. So I'm speaking here of</p> <p>17 schedule 1, where it says "The Services" on Bates</p> <p>18 number MTA4289691. Do you see that?</p> <p>19 A I see that.</p> <p>20 Q At this time, in July of 2005, did</p> <p>21 you have an understanding of what -- what these</p> <p>22 activities were?</p> <p>23 A I didn't have a general understanding</p> <p>24 about the details of these activities.</p> <p>25 Q Did you have any understanding of who</p>

19 (Pages 70 to 73)

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<p style="text-align: right;">Page 74</p> <p>1 would perform these activities?</p> <p>2 A The general understanding was that</p> <p>3 Chaptex, the consulting party, would perform these</p> <p>4 activities.</p> <p>5 Q And what was the basis for that</p> <p>6 understanding?</p> <p>7 A The basis was that Magyar Telekom and</p> <p>8 Cosmotelco group had an established relationship</p> <p>9 from the past.</p> <p>10 Q Okay. Did anyone have any</p> <p>11 discussions with you about -- you know, it says</p> <p>12 here, "Achieving the decrease of the charged</p> <p>13 frequency fee to an acceptable level", about how</p> <p>14 that would be done, when that would be done,</p> <p>15 anything like that?</p> <p>16 A No.</p> <p>17 Q Did you have any understanding in</p> <p>18 July of 2005 when these activities would, in fact,</p> <p>19 be done?</p> <p>20 A No.</p> <p>21 Q Did you have any understanding in</p> <p>22 July of 2005 how those activities would be done?</p> <p>23 A No.</p> <p>24 Q Did you consider it part of your job</p> <p>25 responsibilities to find out when and how those</p>	<p style="text-align: right;">Page 76</p> <p>1 earlier".</p> <p>2 Q If you turn to paragraph 5.1 of the</p> <p>3 agreement, which is on Bates number MTA4289687. Do</p> <p>4 you see paragraph 5.1?</p> <p>5 A Yes, I see that.</p> <p>6 Q And it says, "the company shall pay</p> <p>7 a success-based fee in the maximum amount of</p> <p>8 EURO 980,000". Do you see that?</p> <p>9 A Yes, I see that.</p> <p>10 Q How did you know to put in that this</p> <p>11 would be a success-based fee?</p> <p>12 A Can you rephrase the question,</p> <p>13 please?</p> <p>14 Q Did anyone tell you, in preparation</p> <p>15 for drafting this agreement, that the fee would be</p> <p>16 a success fee?</p> <p>17 A Yes. I had the general understanding</p> <p>18 that this is going to be a success fee based</p> <p>19 contract, based on the attachments to the e-mails</p> <p>20 covered by exhibits previously discussed.</p> <p>21 Q Okay. Can you tell me which -- which</p> <p>22 exhibit you're referring to?</p> <p>23 A If we see Exhibit 93?</p> <p>24 Q Okay.</p> <p>25 A And if we see the last page?</p>
<p style="text-align: right;">Page 75</p> <p>1 activities would be done?</p> <p>2 A No. I didn't think that it belonged</p> <p>3 to my job responsibilities to make a general --</p> <p>4 make a detailed check of these activities.</p> <p>5 Q What did you consider to be your job</p> <p>6 responsibilities with respect to this agreement?</p> <p>7 A To put together a draft using the</p> <p>8 samples, the templates I received, put in the</p> <p>9 details, i.e. the consultancy tasks and the success</p> <p>10 fee elements, and send it out.</p> <p>11 Q So at the time you wrote and prepared</p> <p>12 the draft with a performance deadline of June 30th,</p> <p>13 did you know whether the activities had, in fact,</p> <p>14 already been completed prior to June 30th?</p> <p>15 A I had the general understanding,</p> <p>16 which is proved by paragraph number 2 of the cover</p> <p>17 e-mail, starting with, "as I have been informed".</p> <p>18 Q Okay. And will you just read the</p> <p>19 portion of the e-mail that explains your answer?</p> <p>20 A The relevant part is, "I have been</p> <p>21 informed with respect to tasks number 1 and 2, the</p> <p>22 fulfilment can be evidenced by the</p> <p>23 resolutions/orders of the relevant Macedonian</p> <p>24 authority, while with respect to task number 3, an</p> <p>25 informal background agreement has been reached</p>	<p style="text-align: right;">Page 77</p> <p>1 Q Mmmm.</p> <p>2 A There is a table about a service fee</p> <p>3 or success fee proportion table. That was the</p> <p>4 starting point for that.</p> <p>5 Q So after -- turning back to Exhibit</p> <p>6 43 and your e-mail to Mr. Balogh. After you sent</p> <p>7 the e-mail to Mr. Balogh on July 7, 2005, did you</p> <p>8 have any conversations with Mr. Balogh on the</p> <p>9 subject?</p> <p>10 A I didn't have a conversation with</p> <p>11 Mr. Balogh on the subject. A few days later there</p> <p>12 was a follow-up in correspondence on this.</p> <p>13 Q I'm handing you a document that's</p> <p>14 been marked Exhibit 46 in a prior deposition.</p> <p>15 (PREVIOUSLY MARKED: Exhibit 46 was</p> <p>16 tendered to the witness for identification)</p> <p>17 Exhibit Number 46 is a 3-page</p> <p>18 document. It's an e-mail chain on the first page</p> <p>19 that is in English. The first and second pages are</p> <p>20 in English, and the third page is partially in</p> <p>21 English and partially in Hungarian. So the Bates</p> <p>22 numbers go from 8353-T, 8354 and then 8353 on the</p> <p>23 third page.</p> <p>24 Mr. Balogh(sic), have you seen</p> <p>25 Exhibit 46 before? I'm sorry. I'm sorry;</p>

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<p>1 Mr. Herczegh.</p> <p>2 A Yes, I have seen Exhibit 46 before.</p> <p>3 Q And is the third page of Exhibit 46</p> <p>4 original?</p> <p>5 A Yes, I have seen the last page.</p> <p>6 Q Okay. Can you tell me what</p> <p>7 Exhibit 46 is?</p> <p>8 A Exhibit 46 is an e-mail chain</p> <p>9 starting from my e-mail from the 7th July. A few</p> <p>10 days later, because I didn't hear any information</p> <p>11 what happened about the draft, I sent out</p> <p>12 a follow-up e-mail to Mr. Balogh on the 11th July</p> <p>13 asking that the modified draft was acceptable and</p> <p>14 then do I need to prepare the other three</p> <p>15 agreements. I asked this because I felt time</p> <p>16 pressured on and around on 7th July. And, after</p> <p>17 sending out draft, nothing happened.</p> <p>18 Q Okay. So if you take a look at the</p> <p>19 -- the Hungarian original, the third page of</p> <p>20 Exhibit 46, and the translation into English on the</p> <p>21 first page, can you tell me whether the English</p> <p>22 translation appears to be an accurate version of</p> <p>23 the original Hungarian?</p> <p>24 A (Witness reviewed the documents) The</p> <p>25 English translation seems to be accurate.</p>	<p>1 A As I recall, yes.</p> <p>2 Q What did you do after receiving this</p> <p>3 e-mail from Mr. Balogh?</p> <p>4 A My recollection is that I contacted</p> <p>5 later on Mr. Vaczlavik asking for further</p> <p>6 information.</p> <p>7 MR. DODGE: We need to change the</p> <p>8 tape. We need to take a short break for that.</p> <p>9 VIDEOGRAPHER: Going off the record</p> <p>10 at 11:59 a.m. This is also the end of tape number</p> <p>11 1.</p> <p>12 (A short recess at 11:59 a.m.)</p> <p>13 (Resumed at 12:06 p.m.)</p> <p>14 VIDEOGRAPHER: This is tape number 2,</p> <p>15 volume 1 in the video deposition of Zsolt Herczegh,</p> <p>16 being held at the offices of Nabarro in London.</p> <p>17 We're going back on the record at 12:06 p.m.</p> <p>18 BY MR. DODGE:</p> <p>19 Q During the break, Mr. Herczegh, your</p> <p>20 attorney mentioned to me that you might want to</p> <p>21 clarify something in your prior testimony?</p> <p>22 A Yes. May I add a clarification to</p> <p>23 the document and questions related to Exhibit 43?</p> <p>24 Questions covered that, who informed</p> <p>25 me about the June 30th deadline to be included in</p>
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<p>1 Q So turning your attention to the</p> <p>2 middle portion of the first page of Exhibit 46,</p> <p>3 your e-mail to Andr�s Balogh on July 11, 2005, at</p> <p>4 5:17 p m., so is this an e-mail that you sent to</p> <p>5 Mr. Balogh on about -- on or about that time?</p> <p>6 A Yes.</p> <p>7 Q And the reference to the modified</p> <p>8 draft, does that refer to Exhibit 43, the</p> <p>9 attachment to Exhibit 43?</p> <p>10 A Yes.</p> <p>11 Q And what response did you get from</p> <p>12 Mr. Balogh?</p> <p>13 A Mr. Balogh responded that, "Thank</p> <p>14 you, the agreement has been signed. Please start</p> <p>15 to prepare the others.</p> <p>16 Q And did you ever see the -- the</p> <p>17 signed final frequency fee consulting contract?</p> <p>18 A Late -- much later on, during the</p> <p>19 internal investigation at Magyar Telekom, I has</p> <p>20 seen the signed version of the agreement.</p> <p>21 Q Okay. So did you -- did you see the</p> <p>22 signed version in 2007 then?</p> <p>23 A Yes.</p> <p>24 Q And, when you saw the signed version</p> <p>25 in 2007, was that the first time you'd seen it?</p>	<p>1 the agreement. And let me correct my previous</p> <p>2 statement, that I don't recall that I invented that</p> <p>3 date, but I'm not sure who instructed me or</p> <p>4 requested me to do that.</p> <p>5 Q Is there anything else you'd like to</p> <p>6 add? Or is that --</p> <p>7 A No, I just wanted to clarify this</p> <p>8 part which relates to the second paragraph of that</p> <p>9 e-mail.</p> <p>10 Q I'm going to hand you another</p> <p>11 document. This has been marked in a previous</p> <p>12 deposition Exhibit Number 45. (Same handed)</p> <p>13 (PREVIOUSLY MARKED: Exhibit 45 was</p> <p>14 tendered to the witness for identification)</p> <p>15 Exhibit Number 45 is a 7-page</p> <p>16 document, 8-page document, Bates numbered</p> <p>17 MT-LON 44903 to 44910. It says consultancy</p> <p>18 agreement on the first page.</p> <p>19 Mr. Herczegh, have you seen</p> <p>20 Exhibit 45 before?</p> <p>21 A Yes.</p> <p>22 Q And can you tell me what it is?</p> <p>23 A This is the final and signed</p> <p>24 consultancy agreement concluded between MakTel and</p> <p>25 Chaptex.</p>

21 (Pages 78 to 81)